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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,479	08/26/2003	Thomas C. Stephens	32513/288294	5379
23370	7590	01/17/2006	EXAMINER	
JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET ATLANTA, GA 30309			UPTON, CHRISTOPHER	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/649,479

Applicant(s)

STEPHENS, THOMAS C.

Examiner

Christopher Upton

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14, 16-22, 24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16-22, 24 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 4, 6, 7, 9-12, 17-19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Urriola in view of Wilhelmson.

Urriola discloses a geotextile container for separating solids from liquids, substantially as claimed. While Urriola does not disclose a liquid reservoir for collecting the filtered liquid, such a reservoir in a similar system is known, as exemplified by Wilhelmson. It would therefore have been obvious for one skilled in the art to add such a reservoir for collecting liquid to the device of Urriola, if it is desired to collect the liquid for further treatment rather than discharge it directly.

3. Claims 2, 13, 20 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Urriola as applied to claims 1 and 17 and further in view of Lloyd.

Claims 2 and 25 differ from Urriola in recitation of a waste receiver for collecting the waste, while claims 13 and 20 recite a second geotextile container in series with the first. It is known to collect a waste prior to filtration and to filter the filtrate from a first filter, as exemplified by Lloyd. It would therefore have been obvious for one skilled in the art to add a collector for the waste prior to filtration, to provide for flow equalization, and to use a series of filtration steps, to improve the quality of the effluent.

5. Claims 5, 8, 14 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Urriola as applied to claims 1 and 17 above, and further in view of Bergh.

Claim 5 differs from Leckner in recitation of a valve, while claim 8 recites inner and outer layers of material, and claims 14 and 21 recite at least two containers with simultaneous feed into the containers. It is known to provide a plurality of multi-layer filters with valve control, as exemplified by Bergh. It would therefore have been obvious for one skilled in the art to use such a multi-layer filter system in the devices of Leckner or Urriola, to strengthen the filters, and to use multiple filters with valve control, to increase the capacity with increased flow.

6. Claims 1-7, 9, 10, 12, 14, 17-19, 21, 22 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Keller et al.

Keller and discloses a self-supported geotextile filtering container for filtering a sludge and returning filtered liquid to a reservoir, as claimed.

7. Claims 16 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keller et al in view of Pohoreski, Tono or Haase.

Claims 16 and 24 differ from Keller in recitation of the flocculating polymer being of the opposite charge as another conditioning additive. It is known to use combinations of additives of different charges for flocculation, as exemplified by Pohoreski, Tono and Haase. It would therefore have been obvious for one skilled in the art to use such a combination of additives in the system of Keller, to improve coagulation and flocculation.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keller in view of Bergh.

Claim 8 recites inner and outer layers of material. It is known to provide a multi-layer filter, as exemplified by Bergh. It would therefore have been obvious for one skilled in the art to use such a multi-layer filter system in the device of Keller, to strengthen the filters.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other references disclosing self-supporting geotextiles include Bessey and Midkiff.

10. Applicant's arguments filed on June 9, 2005 have been fully considered but they are not persuasive.

Applicant argues that the provisional application provides a basis for the self-supporting geotextile container in the drawings. It is submitted, that while the drawings do not show an external support, there is no positive disclosure of a self-supporting geotextile container. It is further submitted that the drawings are fairly abstract in what they show, and that they appear to show the geotextile container as being suspended above the drainage area. This structure would appear to permit the use of, if not require, at least an internal support. It is therefore submitted that the filing date for the embodiment with a self-supporting geotextile container would be August 26, 2003, and that therefore Keller qualifies as prior art under 35 USC 102(e).

With respect to Urriola, applicant argues that one skilled in the art would not be motivated to modify its rainwater treatment system with the sewage treatment system of Wilhelmson. It is submitted that the principles of solids separation and liquid collection are equally applicable to either case, and that therefore, the combination is proper.

Applicant further argues that the geotextile container of Urriola is not self supporting. It is submitted that it is not entirely clear from applicant's disclosure and arguments as to what the limitation of "self-supporting" is intended to cover, and that therefore the limitation has been given a broad definition of the walls of the container being able to support themselves, and not the more narrow limitation that the container being suspended above the drainage area without the need for external or internal support (i.e. the walls of the container can maintain their shape, but the container needs

to rest on a surface). It is submitted that the geotextile container of figures 12-14 of Urriola is placed on a three-dimensional drainage mat, as in applicant's claim 11, and requires no other support to maintain its shape.

With respect to Bergh, applicant argues that the device requires pressurized impermeable containers. It is submitted that the principles of filtration by multiple layers and multiple parallel filters apply equally to pressurized on gravity filters.

With respect to Keller, applicant argues that Keller does not disclose a self-supporting geotextile container. It is submitted that Keller, in column 3, lines 51-55 states that the geotextile containers are made from folding a geotextile sheet and form a cylindrical or pillow-like shape, and that the material would therefore need to be self-supporting to maintain such a shape.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date

of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. The following observations are made:

The recitation of the structures with a self-supporting geotextile container as recited in claims 1, 17 and 25 in combination with the feature of the self-supporting geotextile container being suspended over the drainage area as shown in the drawings would patentably distinguish over the prior art of record, as the references either show the geotextile container as resting on the drainage surface, as in Urriola and Keller; or require a support to suspend the container, as in Leckner.

In addition, the addition to the combinations recited in claims 1, 17 and 25 of the recitations of both the three dimensional drainage net of claim 11 and the chemical conditioner and polymer addition of claim 16 would patentably distinguish over the prior art of record, as there is no motivation to combine a chemical conditioner and polymer addition system to the rainwater separator of Urriola, or to add a three dimensional drainage net to the bed and liner of Keller.

13. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the three dimensional drainage net must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

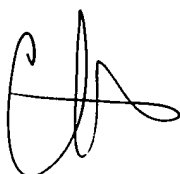


replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Upton whose telephone number is 571-272-1169. The examiner can normally be reached on 7:30-5:00, off every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'CU' with a stylized flourish extending to the right.

Christopher Upton  
Primary Examiner  
Art Unit 1724